

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DONALD K. DELISLE,

Petitioner,

v.

MICHAEL T. MALONEY,

Respondent.

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Civil Action No. 04-11906-JLT

**MOTION TO EXTEND TIME
TO RESPOND TO PETITION FOR WRIT OF HABEAS CORPUS**

The respondent, by and through counsel, the Attorney General of the Commonwealth of Massachusetts, hereby requests that the Court extend the time within which he must respond to the Petition for Writ of Habeas Corpus that is the subject of the captioned action. Pursuant to this Court's September 14, 2004 Order, the respondent's answer or other responsive pleading presently is due on or before October 8, 2004. By this motion, the respondent requests an extension to and including November 8, 2004. As grounds for this motion, the respondent states as follows:

1. The records relating to the petitioner's underlying state-court convictions are maintained by the Office of the District Attorney for Suffolk County (the "Suffolk DA").
2. Upon receipt of this Court's Order, the undersigned assistant attorney general promptly caused a request to be made to the Suffolk DA for assembly and production of relevant portions of the underlying state-court record, including, but not limited to, copies of the trial transcripts and post-conviction proceedings. The undersigned counsel has not yet received all of the state-court records.
3. Without all of the relevant records, the respondent cannot meaningfully evaluate

threshold defenses under the Antiterrorism and Effective Death Penalty Act (AEDPA), such as whether the petitioner properly exhausted available state-court remedies as required by 28 U.S.C. § 2254(b)(1) and whether the petition is timely filed in accordance with 28 U.S.C. § 2244(d).

4. The extension sought herein will enable the respondent to compile and evaluate all of the relevant records, and, thereby, be in a position to meaningfully respond to the petition.

WHEREFORE, the present motion should be allowed and an order should enter allowing the respondent up to and including November 8, 2004 to answer or otherwise respond to the petition.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

Dated: October 7, 2004

/s/ Natalie S. Monroe
Natalie S. Monroe (BBO # 562383)
Assistant Attorney General
Criminal Bureau
One Ashburton Place
Boston, MA 02108
(617) 727-2200, x2833

Certificate of Compliance with Local Rule 7.1(A)(2)

I, Natalie S. Monroe, hereby certify that I have been unable to confer with the petitioner, who is incarcerated at the Bridgewater State Hospital and is not free to accept or make telephone calls during normal business hours.

/s/ Natalie S. Monroe
Natalie S. Monroe

Certificate of Service

I hereby certify that on October 7, 2004, I caused a copy of the above document to be served by first-class mail, postage prepaid, upon the *pro se* petitioner, Donald K. Delisle, Prisoner No. W66073, Bridgewater State Hospital, 20 Administration Road, Bridgewater, Massachusetts 02324.

/s/ Natalie S. Monroe
Natalie S. Monroe